Supreme Court U.S.
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No. 02-541

IN THE

Supreme Court of the United States

THE COUNTY OF NASSAU and JOSEPH JABLONSKY,

Petitioners,

-v-

RAY E. SHAIN,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE COUNTY OF ORANGE, STATE OF NEW YORK AS *AMICUS CURIAE* IN SUPPORT OF THE PETITION FOR CERTIORARI

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CONSTITUTIONAL PROVISION INVOLVED:

This case involves the following constitutional provision:

U.S. Const. Amendment IV:

> The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

INTEREST OF THE COUNTY OF ORANGE, STATE OF NEW YORK AS AMICI:

The County of Orange, State of New York is a municipality with a population of approximately 341,000, located approximately sixty (60) miles north and west of New York City. In the past, this County was primarily rural in character with farms and small villages located within its borders, which run from the western shore of the Hudson River, to the eastern shore of the Delaware River. In recent years, as a result of its increasing population, the County of Orange has begun to suffer "growing pains", including an increase in violent crime, as well as an increase in gang related criminal activity.

As is the case in most counties in the State of New York, the County, through the elected office of Sheriff operates a correc-

tional facility. The Orange County Correctional Facility (hereinafter referred to as the "OCCF") has a maximum inmate capacity of 616 inmates, with an average daily census of approximately 530 inmates. The OCCF houses all types of inmates: pre and post arraignment; sentenced and unsentenced; felons, misdemeanants and those individuals charged with lesser offenses. Most of the towns and villages within the County have no detention or holding facilities of their own, and as such, all post-arraignment detainees are remanded to the custody of the OCCF by local magistrates and judges. Individuals arrested by the New York State Police within the County of Orange are also held at the OCCF, both pre and post arraignment.

In January of 2001, the OCCF staff undertook a complete review of the OCCF's strip search procedure for pre-trial detainees (as opposed to sentenced inmates) with the assistance of the Orange County Attorney's office. "Pre-trial detainee" pertains only to those prisoners who are held in custody at the OCCF, pursuant to a securing order from a court committing an individual to the custody of the Orange County Sheriff, pending release on bail/bond or further appearance before a Superior Court. The aforementioned review consisted of an examination of the regulations of the New York State Commission of Correction, (the New York State agency charged with the oversight of the OCCF), as well as reported decisions from the United States District Court for the Southern District of New York, the Second Circuit Court of Appeals and this Court. The Orange County Attorney's Office worked with OCCF personnel in reviewing the procedures that existed; as well as the development and adoption of new procedures that were intended to be in compliance with the requirements of both the state regulatory agency and the Federal Courts. This review of the OCCF's strip search procedures was occasioned by a number of factors including a District Court lawsuit, which

brought to light issues regarding the strip search procedures followed by OCCF personnel, as well as the impending move of the OCCF's operations to an entirely new facility.

As a result of the aforementioned review, the Orange County Sheriff's Office adopted a comprehensive Inmate Search Policy, which was distributed to all Command Staff on August 1, 2001 and subsequently to substantially all OCCF staff during the first week of August 2001. This Inmate Search Policy was formally adopted by Sheriff H. Frank Bigger on August 20, 2001, but had been in practice since early August of 2001.

This Inmate Search Policy Section 5.3.1stated in pertinent part that a strip search may be conducted under the following circumstances:

a. Committed sentenced inmate/weekenders;
b. Committed probation/parole violator;
c. Weapons or narcotics offenses;
d. Known gang affiliation;
e. Prior or current escape charges;
f. Committed for a felony;
g. Prior or current contraband charges;
h. Known history of contraband charges;
i. Metal detector/B.O.S.S. (Body Orifice Scanning System) chair activation;
j. Inmate that appears under the influence of drugs/alcohol;
k. Currently suicidal inmate;
l. Prior suicidal history in past 10 years;.....
r. Reasonable suspicion....

The Inmate Search Policy then stated how such a search was to be conducted, i.e., by an officer of the same sex; in private; without physical touching of the inmate, etc.

Prior to the implementation of the aforementioned Inmate Search policy, the OCCF would conduct personal hygiene examinations of inmates' persons upon their admission to the OCCF. These personal hygiene examinations consisted of visual inspections of the inmates' bodies during the time they were changing from their street clothes into their OCCF-issued jumpsuits. If the corrections' officer conducting the examination had a reasonable suspicion that the inmate was secreting drugs, weapons or other contraband on his/her person, a strip search would be initiated. Again, the strip searches conducted involved no touching of the inmate by corrections personnel, were done in private, were brief and performed by officers of the same sex as the involved inmates.

In November of 2001, the New York State Commission of Correction conducted its annual evaluation of the OCCF. In January of 2002, the OCCF received the report from the State Commission of Correction regarding its November 2001 evaluation. Significantly, the OCCF's Admissions' policies and procedures were reviewed and found to be in full compliance with State standards. The only criticism of the OCCF's search policy by the Commission of Correction was that the Jail staff cease completing strip search forms with respect to visitation searches. Significantly, at no time in any of the previous State Commission of Correction's annual evaluations performed during the years 1999-2000, was the OCCF ever cited for its then existing policy of inmate body searches/personal hygiene examinations.

At the present time, pending before the United States District Court in the Southern District of New York is a class action lawsuit entitled, *Dodge v. County of Orange, et. ano.*, 02 Civ. 769 (U.S.D.C., S.D.N.Y.), wherein Plaintiffs allege that the County of Orange and its Sheriff, H. Frank Bigger created, implemented and maintained a blanket illegal policy of strip

searching all pre-trial detainees admitted to the OCCF from January 31, 1999 through July 26, 2002.

Plaintiffs commenced this action in and about February of 2002 against the County of Orange and the Sheriff of Orange County (hereinafter referred to as the County Defendants). Prior to the joinder of issue therein, Plaintiffs moved for class certification and for a preliminary injunction. In a decision, dated May 31, 2002, the District Court ordered that a hearing be held on the issue of whether injunctive relief was warranted.

This hearing took place on June 24, 2002. The County Defendants contended at the time of the hearing before the District Court that their August, 2001 Inmate Search policy comported with the prevailing Federal and State case law precedents, as well as all state and Federal mandates regarding searches conducted of pre-trial detainees upon their admission to a correctional facility. All personnel with the authority to conduct pre-trial detainee strip searches did so pursuant to the aforementioned Inmate Search policy and with the limitations prescribed by both State regulatory agencies and Federal court decisions.

The District Court, in a decision dated July 24, 2002 enjoined the County Defendants from utilizing the Inmate Search Policy, first implemented in August of 2001. Essentially the District Court Judge ruled that the OCCF was enjoined from strip searching a pre-trial detainee held for a misdemeanor or lesser offense based solely on the existence of one of the factors listed in the subject Inmate Search Policy. For example, the District Court held that corrections officers could not strip search a detainee solely as a result of a positive metal detector reading; or solely on the basis that the detainee appeared to be under the influence of drugs or alcohol; or solely on the basis that the detainee is held on a parole or probation violation. In fact, a

strict interpretation of the District Court's decision would not permit the strip search of any individual charged with a felony. The County Defendants were essentially ordered to only strip search a detainee when a corrections officer had *individualized* reasonable suspicion to conduct such a search. In the words of the District Court, "[OCCF officers] may – indeed, they must – evaluate the crime charged, the circumstances of the arrest, and the detainee's characteristics, including the factors listed in Section 5.3.1." The District Court Judge further noted that the OCCF would not be "unduly burdened" by changing its strip search policy to conform to her ruling.

The District Court judge specifically based her decision on the case law precedents established by the United States Court of Appeals for the Second Circuit in the cases of *Weber v. Dell*, 804 F.2d 796 (2nd Cir. N.Y.,1986) and *Shain v. Ellison*, 273 F.3d 56 (2nd Cir. N.Y., 2001).

Subsequent to the District Court's ruling, an amended strip search policy and post orders were issued to the Booking and Receiving unit of the OCCF so to conform to the preliminary injunction. Since that time, OCCF personnel have substantially conformed to the District Court's injunction.

On July 31, 2002, an article about the District Court's issuance of the injunction appeared in the New York Law Journal. Later that same week, another article about the injunction appeared in the Times-Herald Record, a local newspaper that provides news coverage of events that affect both Orange and Sullivan Counties.

Since the issuance of the District Court's injunction and the appearance of articles in various newspapers regarding same, there has been a significant increase in the amount of contraband seized post admission at the OCCF, as established by the

number of State Reportable Incidents (S.R.I.'s) of contraband. The State Commission of Correction requires reporting of any incidents of contraband seizures when the contraband discovered originates from outside the confines of the particular correctional facility. In addition to S.R.I.'s, the OCCF staff also report any incidents of contraband discovered within the Facility, whether the contraband was introduced from the outside or whether the contraband was from within the Jail itself, i.e. batteries, medications, and excess issue items such as toilet paper, pens, clothing, etc.

A review of relevant OCCF records reveal the following: for the year 1999, there were five S.R.I.'s of contraband at the OCCF; for the year 2000, there were five S.R.I.'s of contraband, with one S.R.I. encompassing multiple drug seizures that were the result of an undercover operation at the Facility; and in the year 2001, there was one S.R.I. of contraband. For the months of January through July of 2002, there were four S.R.I.'s of contraband.

As previously indicated, the District Court's injunction was issued on or about July 24, 2002, with the aforementioned newspaper articles appearing within a week of the Court's order. For the month of August of 2002, there were six S.R.I.'s of contraband, a more than 100% increase over the previous seven months. A review of these August S.R.I.'s reveals additional information as to the detrimental effects of the District Court's injunction. Of the six S.R.I.'s of contraband, three of the involved inmates had been admitted to the Jail on misdemeanor charges, with two of the inmates having been admitted into the Jail after the issuance of the Court's injunction and not initially strip searched on their admission. Five of the six August 2002 incidents involved the discovery of drugs, with the remaining S.R.I. involving the discovery of a razor blade in an inmate's shoe. Two of the six August 2002 S.R.I.'s

involved the discovery of drugs in the Alpha Housing Unit, the area where all new inmates are placed for at least three business days, until the inmate classification process is completed.

In September of 2002, S.R.I.'s of contraband at the Jail again increased. For the month of September of 2002, there were five S.R.I.'s of contraband. Of these five S.R.I.'s, two of the involved inmates had been admitted to the Jail post injunction on misdemeanor charges and not strip searched on their admission to the Facility.

In addition to the aforementioned S.R.I.'s, OCCF personnel reported more contraband seizures during the months of August and September of 2002. For the months of January through July of 2002, Jail personnel reported sixteen incidents of contraband seizures at the Jail. For the month of August of 2002, OCCF personnel reported forty-two incidents of contraband seizures. For the month of September 2002, OCCF personnel reported twenty-nine incidents of contraband seizures.

As is clear from the foregoing, contraband introduced into the OCCF has increased significantly since the issuance of the District Court's injunction. State Reportable contraband seized during the months of August and September of 2002 consisted primarily of drugs and weapons. The safety and well being of both inmates and corrections officers have been compromised as a result of the District Court's injunction.

The County of Orange's interest in the outcome of this case is direct and immediate. At present, the County is operating its correctional facility under a District Court injunction which insists that Facility personnel consider factors, which are basically unavailable to them before conducting strip searches

of newly admitted inmates. The District Court's injunction mandates OCCF personnel to evaluate the crime charged, the circumstances of the arrest, and the detainee's characteristics before deciding whether there is reasonable suspicion to conduct an admissions strip search.

The standards mandated by the District Court are simply impractical in the environment of a corrections facility. The OCCF accepts inmates upon presentation of a valid securing order from a local magistrate or judge. In most of the admissions of inmates to the OCCF, the transporting officers are members of the Orange County's Sheriff's Office, and not from the arresting agency, with the exception of inmates admitted through arrests made by the City of Newburgh Police Department and the New York State Police. In those limited situations where inmates are brought into the OCCF by the arresting agencies, the transporting officers are usually not the same officers involved in the original arrest. Newly admitted inmates to the OCCF often have no more paperwork accompanying them than the actual securing order, which merely states the charges against them; at times, with nothing more listed than the relevant Penal Law section numbers.

OCCF booking officers have no information available to them regarding the detainee's actual arrest on that individual's admission to the Jail, other than the charges listed on the securing order. They have no contact with the arresting officers, nor do they have any paperwork from the arresting agency. As such, one of the factors to be considered in determining reasonable suspicion, which has been mandated by the District Court, is simply never available to the booking officers.

This "information gap" regarding the detainee's actual arrest is further compounded by the time lag OCCF personnel

encounter in classifying an inmate, in accordance with the guidelines as set forth by the State Commission of Correction. The State Commission of Correction requires that an inmate be classified within three business days. Routinely, OCCF personnel do not receive a positive identification of an inmate until days after he/she is first admitted to the facility. Until completion of the classification process, newly admitted inmates are housed together and have full contact with each other. The newly admitted inmates include parole violators, felony detainees, misdemeanor detainees, newly sentenced inmates and violation detainees. These detainees have full contact with both uniformed and civilian staff throughout the admissions procedures. Upon initial admission to the Facility, OCCF personnel have insufficient information upon which to determine who should be separated from whom.

The information received by Booking officers on an inmate's initial admission is strictly self-reported information and that limited information, which is reflected on the securing order. On admission, OCCF personnel are simply unaware of a particular inmate's criminal history or institutional behavior.

As is clear from the foregoing, the admissions procedures ordered by the District Court have resulted in a significant increase in contraband seizures at the Jail. This court ordered limitation of the Jail's prior Inmate Search policy has been noticed by the inmate population, as well as those recidivist offenders who are regularly admitted to the Jail. Often, detainees charged with a misdemeanor offense have had previous felony charges lodged against them. Statistics of new inmate admissions during the month of August 2002 reveal the following: of the 532 new inmate admissions during that month, 265 detainees were charged with misdemeanor or lesser offenses. Of those 265 detainees, 137 had prior felony arrests. In September of 2002, there were 501 new admissions to the

Jail. Of those admissions, 253 were for misdemeanor or lesser offenses. Of those 253 detainees, 146 had been previously arrested on felony charges.

Studies of correctional facilities have established that it is common for detainees to coerce or cajole individuals to smuggle contraband into the facilities. Obviously if body search procedures are relaxed for detainees charged with misdemeanor or lesser offenses, other inmates have now been provided with a new means of obtaining contraband in the Jail. This theory is clearly borne out by the increase in S.R.I.'s for the months of August and September of 2002 at the OCCF.

At the present time, the County of Orange is continuing to defend the *Dodge* case, litigating in both the United States District Court and the United States Court of Appeals for the Second Circuit. Discovery in the District Court action is completed and a Joint Pre-Trial Order has been filed. Plaintiffs have moved for summary judgment and the County has until November 21, 2002 to respond to that dispositive motion. The County has filed a petition for leave to appeal the District Court's decision granting class certification, to the Second Circuit. A decision on that petition is still pending. Additionally, the County has filed an appeal with the Second Circuit as of right, as to the District Court's injunction order of July 24, 2002.

ARGUMENT

I.

THE DECISION BELOW CONFLICTS WITH DECISIONS OF THIS COURT ON IMPORTANT ISSUES AFFECTING FEDERAL CONSTITUTIONAL RIGHTS

A. The Decision Below upholds the Second Circuit's decision in Weber v. Dell, 804 F.2d 796, 55 USLW 2316 (2nd Cir. N.Y.,1986) and fails to apply the prevailing standards set forth in this Court's Decision in Turner v. Safley, 482 U.S. 78, 107 S.Ct. 2254, 96 L.Ed.2d 64 (1987)

The seminal case that establishes the constitutionality of body searches of inmates is *Bell v. Wolfish*, 441 U.S. 520, 99 S.Ct. 1861, 60 L.Ed.2d 447 (1979). In *Bell*, this Court held that, if a particular condition or restriction imposed on a pre-trial detainee is reasonably related to legitimate non-punitive governmental objectives, it does not, without more, amount to punishment. See, *Bell*, 441 U.S. at 539; *see also, Bowman v. City of Middletown*, 91 F.Supp.2d 644 (S.D.N.Y. 2000). In determining the constitutionality of body searches of inmates, this Court held that institutional security and preserving internal order and discipline were essential goals that may require limitation or retraction of retained constitutional rights of pre-trial detainees. Accordingly, prison officials must be free to take appropriate action to ensure the safety of inmates and corrections personnel. *See, Bell*, 441 U.S. at 546.

In light of the problems that arise in the daily operations of a correctional facility, prison administrators should be accorded wide-ranging deference in adoption and execution of policies and practices that, in their judgment, are necessary to preserve internal order, security and safety. *See, Bell*, 441 U.S.

at 547 (*citing, Jones v. North Carolina Prisoners' Labor Union*, 433 U.S. 119, 97 S.Ct. 2532, 53 L.Ed.2d 629 (1977) [additional citations omitted]). "Such considerations are peculiarly within the province and professional expertise of corrections officials, and in the absence of substantial evidence in the record to indicate that the officials have exaggerated their response to these considerations, courts should ordinarily defer to their expert judgment in such matters." *Pell v. Procunier*, 417 U.S. 817, 827, 94 S.Ct. 2800, 2806, 41 L.Ed.2d 495 (1974).

In *Bell*, this Court found that the practice of conducting visual body-cavity searches of pre-trial detainees after contact visits did not violate the Fourth and Fifth Amendments. When balancing the significant and legitimate security and safety interests of the facility as against the inmates' privacy interests, this Court held that such searches could be conducted on less than probable cause and were not unreasonable. *See, Bell*, 441 U.S. at 558. While the test of reasonableness under the Fourth Amendment was not capable of precise definition or mechanical application, this Court stated that each case required a balancing of the particular need for the search against the invasion of personal rights that the search engendered. Courts must consider the scope of the particular intrusion, the manner in which it was conducted, the justification for initiating it and the place in which it is conducted. *See, Bell*, 441 U.S. at 559.

Subsequent to *Bell*, this Court decided the case of *Turner v. Safley*, 482 U.S. 78, 107 S.Ct. 2254, 96 L.Ed.2d 64 (1987), involving the constitutionality of prison restrictions on an inmate's right to marry. In *Turner*, this Court determined that the standard of review for a prison regulation and its constitutionality is whether the regulation is reasonably related to legitimate penological interests. In determining reasonableness, the relevant factors to be considered by the Courts include: (a) whether there is a valid, rational connection between the

regulation and a legitimate, neutral governmental interest; (b) whether there are alternative means of exercising the asserted constitutional right that remain open to inmates; (c) what extent the proffered accommodation of the asserted right will have on prison staff, prisoners' liberty and the allocation of limited prison resources; and (d) whether the regulation represents an exaggerated response to prison concerns. *See, Turner*, 482 U.S. at 89, 107 S.Ct. at 2262; *see also, Nicholas v. Miller*, 189 F.3d 191 (2nd Cir., N.Y. 1999). The *Turner* Court further found that application of the foregoing test would require particular deference to the expertise of correction officials. *See, Turner*, 482 U.S. at 90.

The holding of this Court in the case of *Turner*, 482 U.S. at 78, implicitly overruled the Second Circuit's decision in the case of *Weber*, 804 F.2d at 796. In his dissent in the case below, the Honorable Jose A. Cabranes suggested that Second Circuit cases since *Weber* and *Turner* have been decided using two different standards: (1) that of "reasonable suspicion" as set forth in *Weber;* and (2) that of "reasonable relation to legitimate penological objectives", as set forth in *Turner*. Judge Cabranes determined that the standard set forth in *Turner* must prevail, as this Court decided this particular case. In further support of his position, Judge Cabranes noted that in no other case was a distinction made between "jails" and "prisons," as was done by the majority in the *Shain v. Ellison* [273 F.3d 56 (2d Cir. N.Y., 2001)] case to support its decision that the *Weber* standard applied to body searches of misdemeanor pre-trial detainees. Judge Cabranes further noted that other Circuits "routinely" applied the *Turner* standard to cases involving "jails." *See, Shain*, 273 F.3d at 71.

The State Courts in New York have also deferred to the authority of correction officials in the creation and implementation of policies relating to inmate management, security, safety

and discipline. *See, Clow v. Coughlin*, 222 A.D.2d 781, 634 N.Y.S.2d 823 (3rd Dept. 1995); *Allah v. Coughlin*, 190 A.D.2d 233, 599 N.Y.S.2d 651 (3rd Dept. 1993).

In the case of *Covino v. Patrissi*, 967 F.2d 73 (2nd Cir. 1992), the Second Circuit ruled that random visual body-cavity searches of inmates were related to legitimate penological interests. The *Covino* Court found that there were no viable alternative means that would allow prisoners to exercise limited bodily privacy rights, which, at the same time, would allow corrections officials to fully achieve the effectiveness of the challenged searches. *See, Covino*, 967 F.2d at 79. The *Covino* Court further noted that the *Turner* requirement of a reasonable alternative required the Plaintiff inmate to point to an alternative policy that fully accommodated the prisoner's rights at *de minimis* cost to valid penological interests. *See, Covino*, 967 F.2d at 80.

OCCF personnel accept pre-trial detainees pursuant to lawful securing orders, issued by various local Courts. In most cases, the transport of these detainees is conducted by Orange County Sheriff's officers, not by officers from the arresting agencies, with the exception of inmates admitted through arrests made by the City of Newburgh Police Department and the New York State Police. As such, corrections officials at the OCCF, rarely, if ever, are provided with any information regarding the circumstances of a particular detainee's arrest, one of the criteria the *Weber* Court permitted when considering reasonable suspicion for a strip search. The fact that a pre-trial detainee may have been searched by the arresting agency is of no consequence as basic corrections training requires an officer to treat an incoming inmate as if he/she had never been searched. A corrections officer is trained that he/she cannot assume that any newly admitted inmate has been properly searched by anyone other than him/herself.

B. The New York State Commission of Correction requires immediate screening and visual assessment, with classifications procedures mandated to be completed within three business days.

Pursuant to the Rules and Regulations of the State of New York, Commission of Corrections, each inmate on admission to a local correctional facility shall undergo an initial screening and risk assessment, which shall consist of a screening interview, visual assessment and review of commitment documents. Such screening and assessment shall occur immediately upon an inmate's admission. 9 NYCRR Section 7013.7(a). In pertinent part, the State regulations further provide that a screening instrument shall be utilized to elicit and record information on each inmate relating to the following:

> (1) visible injury/injuries;
> (2) medical conditions requiring immediate treatment;
> (3) mental or physical handicap(s)....
> (6) history of detention or incarceration, including but not limited to hostile relationships with other inmates...
> (8) present appearance and behavior...
> (10) criminal charge(s) and conviction(s); and
> (11) any other relevant information concerning the safety or welfare of the inmate.

See, 9 NYCRR Section 7013.7(b). Lastly, the State regulations require that "an immediate decision concerning the disposition of each inmate shall be made on the basis of information gathered during initial screening and risk assessment." 9 NYCRR Section 7013.7(c).

State Commission of Correction regulations require that classification of an inmate [the process by which an inmate is assigned to a particular housing unit, with consideration given to his/her security, supervision and special needs] be completed within three business days. See, 9 NYCRR 7013.8. Until that classifications process is completed, all newly admitted inmates are housed temporarily in the same area. In light of the foregoing State regulations governing the operation of local correctional facilities, as well as the legitimate penological interests of inmates' and corrections officers' health and safety, the Sheriff of Orange County implemented the policy of body searches for each inmate admitted to the OCCF. Significantly, the New York State Commission of Correction, never objected to, nor cited the OCCF's body search policies as being improper, inappropriate or unconstitutional in any of the Commission's surveys performed during the years 1999 through the present date.

The Second Circuit has applied both the *Weber* and the *Turner* standards in cases involving correctional facility regulations. There is conflict within the Circuit itself as to what standard should be applied to correctional facility regulations. There is conflict among the Circuits across the country as to what standard should be applied to correctional facility regulations [*See, Mauro v. Arpaio*, 188 F.3d 1054 (9th Cir. 1999)(*en banc*) *cert. denied*, 529 U.S. 1018 (2000); *Siddiqi v. Leak*, 880 F.2d 904 (7th Cir. 1989)]; as well as under what circumstances are body searches of pre-trial detainees appropriate on their admission to correctional facilities. [*See, Kraushaar v. Flanigan*, 45 F.3d 1040 (7th Cir. 1995); *Justice v. City of Peachtree City*, 961 F.2d 188 (11th Cir. 1992); *Thompson v. City of Los Angeles*, 885 F.2d 1439 (9th Cir. 1989); *Dobrowolskyj v. Jefferson County, Ky.*, 823 F.2d 955 (6th Cir. 1987) *cert. denied*, 484 U.S. 1059 (1988)]. Correctional officials are in the best position to determine the security needs of their facilities. If correctional

facility regulations do not infringe on constitutional rights, the decisions of correctional administrators must be respected. In these post-9/11/01 times of heightened security concerns, corrections personnel throughout the nation are more than reasonable in their desire to prevent the introduction of contraband into their facilities. As such, their expertise in such matters should be deferred to by all Courts, according to the standards enunciated by this Court in the *Turner* case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Dated: Goshen, N.Y.
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